

By: Gutierrez

H.B. No. 1323

A BILL TO BE ENTITLED

AN ACT

relating to the sale of certain abusable synthetic substances;
providing a civil penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle C, Title 6, Health and Safety Code, is
amended by adding Chapter 484 to read as follows:

CHAPTER 484. ABUSABLE SYNTHETIC SUBSTANCES

Sec. 484.001. DEFINITIONS. In this chapter:

(1) "Abusable synthetic substance" means a substance
that:

(A) is not otherwise regulated under this title
or under federal law; and

(B) when inhaled, ingested, or otherwise
introduced into a person's body, produces an effect similar to that
of a controlled substance listed in a penalty group under
Subchapter D, Chapter 481.

(2) "Sell" and "sale" include offer for sale,
advertise for sale, expose for sale, keep for the purpose of sale,
deliver for or after sale, solicit and offer to buy, and every
disposition for value.

Sec. 484.002. PROHIBITED ACTS; CIVIL PENALTY. (a) A person
is liable to the state for a civil penalty if in the course of
business the person:

(1) sells or delivers an abusable synthetic substance;

1 and

2 (2) knows that the substance produces an effect
3 similar to that of a controlled substance listed in a penalty group
4 under Subchapter D, Chapter 481.

5 (b) The attorney general or a district, county, or city
6 attorney may institute an action in district court to collect a
7 civil penalty from a person who commits a violation under
8 Subsection (a).

9 (c) The civil penalty may not exceed \$10,000 for each
10 violation.

11 (d) The court shall consider the following in determining
12 the amount of the penalty:

13 (1) the person's history of any previous violations of
14 this section;

15 (2) the seriousness of the violation;

16 (3) any hazard posed to the public health and safety by
17 the violation; and

18 (4) demonstrations of good faith by the person.

19 (e) Venue for a suit brought under this section is in the
20 city or county in which the violation occurred or in Travis County.

21 (f) A county represented by a county attorney or district
22 attorney or a municipality represented by a city attorney that
23 institutes a suit for a violation of this section and collects a
24 civil penalty may retain:

25 (1) actual costs of bringing the suit; and

26 (2) 10 percent as a collection fee.

27 (g) After the deduction described by Subsection (f), the

1 county or municipality, as appropriate, shall remit the remainder
2 of the penalty collected under this section to the comptroller.

3 SECTION 2. The change in law made by this Act applies only
4 to conduct that occurs on or after the effective date of this Act.
5 Conduct that occurs before the effective date of this Act is
6 governed by the law in effect at the time the conduct occurred, and
7 the former law is continued in effect for that purpose.

8 SECTION 3. This Act takes effect September 1, 2015.